

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-2840

UNITED STATES OF AMERICA,

Appellee,

v.

CARL CRAWFORD,

Appellant.

On Appeal from United States District Court
for the District of Eastern Pennsylvania
(D. C. No. 03-cr-00105-2)
District Judge: Honorable Mary A. McLaughlin

Submitted Under Third Circuit LAR 34.1(a)
April 10, 2008

Before: SMITH, HARDIMAN and ROTH , *Circuit Judges*.

(Filed: April 17, 2008)

OPINION OF THE COURT

HARDIMAN, *Circuit Judge*.

A jury convicted Carl Crawford of possessing cocaine in violation of 21 U.S.C. § 841(a)(1) and possessing a firearm in violation of 18 U.S.C. § 922(g)(1). In a prior appeal, we affirmed those convictions and remanded for resentencing pursuant to *United States v. Booker*, 543 U.S. 220 (2005). Crawford now appeals the 240-month sentence that the District Court imposed on remand.

I.

Because we write exclusively for the parties, who are familiar with the facts and proceedings below, we will not revisit them here. Crawford argues that his sentence is unconstitutional because it required the District Court to find, as a matter of fact, that he had a prior felony drug conviction. *See* 21 U.S.C. § 841(b). This argument is foreclosed by our decision in *United States v. Ordaz*, 398 F.3d 236, 240-41 (3d Cir. 2005) (citing *Almendarez-Torres v. United States*, 523 U.S. 224, 244 (1998)).¹

We have considered all of Crawford's arguments and conclude that no further discussion is necessary. Accordingly, we will affirm the District Court's judgment.

¹ Even if we were not bound by *Ordaz* and *Almendarez-Torres*, we would still affirm the District Court's sentence. The government must establish that the defendant is a convicted felon to obtain a conviction under § 922(g)(1). At trial, the government relied on Crawford's 1993 felony drug conviction to establish this element. In convicting Crawford of violating § 922(g)(1), the *jury* found beyond a reasonable doubt that he committed the 1993 felony upon which the District Court relied in sentencing Crawford.